

Appl. No. : **10/081,712**
Filed : **February 21, 2002**

AMENDMENTS TO THE DRAWINGS

The attached sheets of drawings include changes to Figure 14. The attached replacement sheet replaces the original sheet that included Figures 14 and 15. Figure 15 has been canceled herein.

Attachment: Replacement Sheet
Annotated Sheet Showing Changes

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REMARKS

Applicants initially would like to thank Examiner Dawson for the courtesies extended to Applicants representative during the telephonic interview summarized above.

By way of summary, Claims 1-35 were originally filed in the present application. In response to a *Restriction Requirement*, Applicants canceled Claims 1-22 and 35 and added Claims 36-43. By previous amendment, Applicants canceled Claim 37 and added Claims 44 and 45. No claims have been canceled herein. Thus, Claims 23-34, 36, and 38-45 are pending in the present application.

Claims Deemed Allowable

Applicants acknowledge with appreciation that the subject matter of Claims 23, 25, 28, 29 and 44 was deemed allowable.

Figure 14 Objected to Under 35 U.S.C. § 132(a)

Figure 14 was objected to under 35 U.S.C. § 132(a) for adding material which is not supported by the original disclosure. Figure 14 has been revised as indicated in the attached *Annotated Sheet Showing Changes*. Applicants have addressed all of the Examiner's objections to the drawings and therefore respectfully request the Examiner to withdraw the drawing objections.

Paragraphs [60] and [61] have been amended based on changes to Figure 14 and for consistent use of reference numerals. Entry of the amendments is respectfully requested.

Claims 26, 27, 30-34, 36, 38-43, and 45 Fully Comply with 35 U.S.C. § 112, first paragraph

Claims 26, 27, 30-34, 36, 38-43, and 45 were rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. Applicants respectfully submit that the pending claims meet the requirements of 35 U.S.C. § 112, first paragraph. For the convenience of the Examiner, Applicants have indicated where support at least in part may be found in the originally filed application for the limitations listed in the *Office Action*. Additionally, Applicants have removed the term "air permeable" from the claims, thereby mooting the Examiner's rejection with respect to this term. Applicants believe that the removed language is not necessary for patentability.

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The originally filed application discloses that the obstructing member 90 may be a one-way valve allowing air to escape from the lung portion 66. Page 12, lines 10-12, originally filed application. The obstruction member 90 can have a conical configuration, and may be hollow. Id. at 17-20. The application further discloses that the obstructing member 90 can comprise a generally conically shaped membrane that functions as a one-way valve. The membrane can permit air flow in one direction, and the membrane can engage the lung wall to substantially inhibit air flow in the other direction. In the illustrated embodiment of Figure 5, the obstructing member 90 contacts the bronchial wall 100 and forms a seal during inhalation. Page 12, lines 25-28. The obstruction member 90 can move away from the bronchial wall 100 to permit air to escape from the lung during, for example, exhalation. Figures 10 and 11 also illustrate one-way valves, for example. Support for the one-way valve having the medicant being impregnated into a member or having an absorptive member can be found at least in part in Figure 6 and paragraph [48]. Support for the one-way valve having a cavity can be found at least in part in Figures 5 and 6 and paragraphs [44], [47]. Support for the mucus transport can be found at least in part in paragraph [58]. Support for the mucociliary pathway can be found at least in part in paragraph [58]. Mucus can move along a mucociliary pathway for mucus transport. Thus, the pending claims are fully supported by the originally filed application.

Objections to Specification

The Examiner objected to the specification because there is no description of Figure 15. Applicants have deleted Figure 15 herewith. Accordingly, the objection is now moot.

The Examiner objected to the specification as failing to provide proper antecedent basis for the claimed subject matter. Proper antecedent basis can be found at least in part at the portions of the specification cited above with respect to the 35 U.S.C. § 112, first paragraph rejections.

Claim objection

Claim 24 was objected to because there is no antecedent basis for the “the step of implanting the device.” Claim 24 has been amended to now recite “inserting.” The claim

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amendment is not related to patentability. Applicants respectfully submit that the objection is overcome.

Claims 40 and 45 Fully Comply with 35 U.S.C. § 112, second paragraph

Claims 40 and 45 were rejected to under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Discussion of a pathway for mucus transport can be found at least in part at the portions of the specification cited above with respect to the 35 U.S.C. § 112, first paragraph rejections. Applicants respectfully submit that the rejection be withdrawn.

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Conclusion

Applicants do not agree with the rejections set forth by the Examiner. Nevertheless, to expedite the prosecution of the present application, Applicants have amended some of the claims. Although changes to the claims have been made, no acquiescence or estoppel is or should be implied thereby. Applicants reserve the right to seek broader claims, e.g., with scope similar to that of previously pending claims in a continuation application. Applicants respectfully submit that the pending claims are novel and non-obvious over the art of record.

The undersigned has made a good faith effort to respond to all of the rejections in the case and to place the claims in condition for immediate allowance. Nevertheless, if any undeveloped issues remain or if any issues require clarification, the Examiner is respectfully requested to call Applicants' attorney in order to resolve such issue promptly.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: December 28, 2005

By: Karl Klassen
Karl Klassen
Registration No. 54,224
Attorney of Record
Customer No. 20,995
(949) 760-0404

